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OFFICE OF PETITIONS

In re Application of
Ben Byrd
Application No. 09/920,707
Filed: August 2, 2001
Attorney Dkt. No: 41872-206195

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 26, 2004.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned February 14, 2004 for failure to timely reply to the non-final Office Action mailed on November 14, 2003. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed June 23, 2004.


Petitioner asserts that a reply to the non-final Office Action and a request for a three month extension of time (and accompanying fee) were timely submitted on May 14, 2004. As evidence, petitioner has submitted a copy of a post card receipt, Express Mail Label pursuant to 37 CFR 1.10 and a copy of the reply which contains a certificate of mailing pursuant to 37 CFR 1.8.

The response submitted May 14, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.


Charlema R. Grant
Petitions Attorney
Office of Petitions